



**`Via E-Mail**

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February 1, 2022

The Honorable Susan Todani, Chairperson  
And Members of the Hawaii Community Development Authority;  
Kalaeloa Authority  
547 Queen Street  
Honolulu, Hawaii 96813

**Comments in Support of Development Permit Application of Gentry Kalaeloa LLC; Permit Number KAL 21-005; Tax Map Key: (1) 9-1-013:197, 198 and 199, for Proposed Ka’ulu Residential Community Project in the Kalaeloa Community Development District.**

**Wednesday, February 2, 2022, 9:00 a.m., Online via ZOOM, Livestream via You Tube**

The Land Use Research Foundation of Hawaii (“LURF”) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. The mission of LURF is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

LURF submits that there are ample facts and substantiation to **support approval of the Development Permit Application of Gentry Kalaeloa LLC (“Gentry”) to build a proposed Ka’ulu Residential Community Project (“Ka’ulu”) in the Kalaeloa Community Development District.**

### **Factual Background**

Gentry is pursuing a Development Permit from the State from the Hawaii Community Development Authority (“HCDA”) to build 390 much-needed homes (including 87 reserved affordable units) for Oahu residents, which is the first new residential development in Kalaeloa in decades and will allow more people to conveniently live and work in that community.

## **LURF's Position**

LURF supports the issuance of a Development Permit to Gentry for its Ka'ulu Project, based upon the following:

### **1. Ka'ulu satisfies of all requirements for approval of a Kalaeloa**

**Development Permit.** Based on the information in Ka'ulu's Permit Application and the HCDA Presentation Hearing Staff Report, LURF believes that the Project satisfies all the requirements for approval of a Kalaeloa Development Permit, as follows:

- Consistency with the Kalaeloa Master Plan: Ka'ulu advances the goals, policies, and objectives of the Kalaeloa Master Plan;
- Consistency with the Kalaeloa Rules: The Project complies with the Kalaeloa Rules relating to *Land Use and Zoning, Street Trees, Building and Frontage Types, Building Placement, Building Form – Height & Density, Architectural Standards, Landscaping, Recreational Space, Parking, Loading, Short-and Long-term Bicycle Parking, Green Building (including controlling stormwater runoff, heat island reduction, and water efficient landscaping), Large Lot Development, Historical and Cultural Sites, Dedication of Public Facilities, Reserved Housing*, and all relevant *Development Standards*; and
- Compatibility with the Kalaeloa Community Development District: The information provided supports a finding that the Project proposal will not have a substantial adverse effect on the surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area.

### **2. Housing and Affordable Housing.** Ka'ulu will build a total of 390 much-needed homes for Hawaii residents who are owner-occupants, reserving at least twenty percent (20%) of the total residential floor area as 87 reserved affordable housing units. The reserved housing units in Ka'ulu have been scrupulously planned and priced by Gentry to be affordable to households meeting asset and other requirements including an adjusted gross income that does not exceed 140% of the area's median income ("AMI") and will include resale restrictions to maintain the affordability of the units, all of which clearly complies with HAR Section 15-216-32(a) of the Kalaeloa Reserved Housing Rules.

In regard to this critical housing issue LURF must, with all due respect to this Authority and its staff, raise issue with proposed Condition No. 13 of the HCDA Staff Decision and Order ("D&O") which requires the Ka'ulu reserved housing units to have a weighted average price based on 110% of the AMI. LURF considers the proposed 110% requirement to be concern as said requirement is inconsistent with the Kalaeloa Rules and the application thereof to other development projects, as well as with the evidence heretofore presented to this Authority in Gentry's Permit Application and throughout this application proceeding.

As far as LURF is able to ascertain, Condition No. 13 as presently drafted is being imposed capriciously upon Gentry without review and analysis of currently available facts and information relating to the legality and appropriateness of such a deviation from the current requirements contained in the HAR; legitimacy of the present need for such a deviation and the requirement's true purpose; clearer articulation of the requirement imposed and contemplated need therefor; and careful consideration of the potential consequences of such a requirement.

Given such discrepancy, the adoption of Condition No. 13 as proposed would appear to amount to an unwarranted exercise of discretion by the HCDA, let alone potentially constitute improper rulemaking on the part of this Authority in violation of the Hawaii Administrative Procedure Act.

Moreover, Gentry's necessitated redesign of essential project elements, whether as an intended or unintended consequence of such improper decision-making, would unreasonably and unjustifiably increase costs, and thereby illogically negate incentive for developers to build future affordable housing in Kalaheo.

As with any government proposal, action or requirement which may possibly divest persons or entities of their rights and private property, LURF must respectfully caution that action taken by this or any Authority must not be made arbitrarily, particularly where the underlying bases used to justify such requirements are subjective and unsupported by hard facts and clear evidence, and when current and future consequences to the private property owners, as well as the community and public, could be damaging economically. The decision to impose what may be an unnecessary and unwarranted requirement must be clearly defensible, with measurable benefits resulting therefrom that would sufficiently outweigh possible detriment to all stakeholders and the community.

In addition to the potentially injurious economic impact on housing in Hawaii, what is concerning about this Authority taking any type of arbitrary action is the bad example being set and the unsettling precedent being laid, demonstrating the ease with which the State government, through its agencies, boards and commissions may so easily elect to utilize its power and influence to overregulate without valid purpose or justification.

LURF therefore believes it would be unreasonable for this Authority to impose proposed Condition No. 13 particularly in view of the current economic uncertainties surrounding interest rates and costs relating to construction including building material costs; and without thorough review and analysis of facts, information, and precedence relating to the legality and appropriateness of such an inconsistent requirement; the legitimacy of the present need for such a requirement; and further consideration of the potential negative consequences of the requirement. LURF must therefore strongly recommend deletion or at the very least, amendment of said Condition, to allow collaboration between Gentry and the HCDA to work toward a feasible plan to provide units at a price based on a reduced percentage of the AMI.

- 3. A livable community – more open space and recreational space.** The Project is planned to include open space (417,446 sf) and recreational space (125,042 sf) that exceed the Kalaeloa requirements.
- 4. Sustainable site design.** Ka’ulu will include stormwater quantity and quality control; covered stalls for each residential unit (thus minimizing the heat island effect); water efficient landscaping irrigation systems; use of native plants that are drought tolerant; and pedestrian and bicycle greenways throughout.
- 5. LEED Gold standard project with energy efficient, green-built homes.** Amongst the many attributes of Ka’ulu, the Project will be constructed to achieve a minimum level of LEED-Homes “Gold,” under the Leadership in Energy and Environmental Design (“LEED”) rating system. Ka’ulu will be comprised of energy-efficient, green-built homes with standard components that are planned to include energy-saving appliances, spray foam insulation, solar water heating, Low-E dual-paned windows, central A/C with 20-SEER rating, LED lighting, light-colored roofs, insulated roll-up garage doors, and provisions for electric car charging stations. Single-family homes will be PV-ready and natural shading and ventilation to be incorporated into the design.
- 6. Economic Benefits.** Moreover, economic benefits of Ka’ulu are expected to include:
  - 150+ jobs annually during construction, and additional permanent maintenance and operating jobs;
  - Millions of State and City taxes and fees;
  - Approximately \$700,000 of additional annual property tax revenues; and
  - Increased customer base for nearby businesses in Kalaeloa and surrounding areas.

HCDA’s approval of Gentry’s Development Application will also support and help enable the State of Hawaii to attain several broader, critical objectives, including the following:

- Production of more housing and affordable housing for local residents;
- Sustainable site design, building practices, and facilities;
- Progress towards achieving its energy efficiency and renewable energy goals; and
- Long-term economic benefits for Oahu.

## **Conclusion**

As explained above, LURF takes issue with the unsupported affordable housing requirement imposed by Condition No. 13 of the Staff’s D&O and recommends instead that said Condition be removed or at the very least amended to allow collaboration between Gentry and the HCDA to work toward a feasible plan to provide units at a price based on a reduced percentage of the AMI.

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With the exception of proposed Condition No. 13, LURF supports the findings in the HCDA Staff D&O and believes that any issues raised in the report can be addressed in future proceedings. LURF therefore otherwise maintains its opinion that ample facts and substantiation exist to validate approval of the Development Permit Application of Gentry for Ka'ulu.

Given the fact that the HCDA's approval of said Permit would be incontrovertibly consistent with the State's plans and long-term objectives relating to the Kalaheo Community Development District, housing, and renewable energy, as well as with the demands and interests of the local community, LURF respectfully requests that the HCDA approve and support the subject Application.

Your consideration is greatly appreciated. Thank you for the opportunity to present testimony regarding this important housing development.